



Overview of the Medicaid-Related Provisions of the Coronavirus Response Packages

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Over the past few weeks, Congress has passed three laws in response to the COVID-19 pandemic.¹ On March 18, the [Families First Coronavirus Response Act](#) (FFCRA) was signed into law. The [Coronavirus Aid, Relief, and Economic Security Act](#) (CARES Act) became law on March 27. This fact sheet summarizes the provisions of these laws that affect Medicaid.

The Families First Coronavirus Response Act

Increased Federal Medical Assistance Percentage (FMAP)

The FFCRA provides a temporary increase in states' Medicaid Federal Medical Assistance Percentage (FMAP) of 6.2 percentage points for expenditures that are ordinarily paid at the state's [regular FMAP rate](#). This FMAP increase is retroactive to January 1, 2020 and applies until the end of the quarter when the coronavirus public health emergency declaration ends.² However, the increase does not apply to expenditures that are not reimbursed at the state's regular FMAP, including administrative expenditures, family planning services, and expenditures for the Medicaid expansion group.³ The increase can apply to Medicaid waivers

¹ The first law passed in response to COVID-19 did not include provisions that impacted Medicaid. The Coronavirus Preparedness and Response Supplemental Appropriations Act, Pub. L. No. 116-123, 134 Stat 146 (2020), <https://www.govinfo.gov/content/pkg/PLAW-116publ123/pdf/PLAW-116publ123.pdf>.

² The public health emergency became effective on January 27, 2020. The emergency declaration lasts for the duration of the emergency or 90 days, but it may be extended at the Secretary's discretion. Families First Coronavirus Response Act [hereinafter FFCRA], Pub. L. No. 116-127, 134 Stat 178 § 6008 (a) (2020), <https://www.congress.gov/116/bills/hr6201/BILLS-116hr6201enr.pdf>; HHS Office of the Assistant Sec'y for Preparedness and Response, *Determination that a Public Health Emergency Exists* (Jan. 31, 2020), <https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx>; HHS Office of the Assistant Sec'y for Preparedness and Response, *Public Health Emergency Declaration Q&As*, <https://www.phe.gov/Preparedness/legal/Pages/phe-qa.aspx#faq7> (last visited April 2, 2020).

³ CMS, *Families First Coronavirus Response Act - Increased FMAP FAQs* [hereinafter CMS Increased FMAP FAQs] 1 (March 26, 2020), <https://www.medicaid.gov/state-resource-center/downloads/covid-19-section-6008-faqs.pdf>.

and section 1115 demonstrations, so long as the expenditures are matched at the state's regular FMAP.⁴

States will also receive an increase in their Children's Health Insurance Program (CHIP) match rates. Because of CHIP's existing enhanced FMAP, the increase under FFCRA is up to 4.34 percentage points. Some states may receive slightly less of an increase, as no state can receive a CHIP FMAP above 100%.⁵

Since territories operate under capped Medicaid funding, the law included an increase in the Medicaid allotments for the territories, in addition to the FMAP increase.⁶

Maintenance of Effort Provision

To be eligible for the increased FMAP, states must meet strong maintenance of effort (MOE) requirements. The MOE includes four components, and is designed to ensure individuals are able to get and stay covered during this crisis.

First, **states are required not to implement "eligibility standards, methodologies, or procedures" that are more restrictive than those the state had in effect on January 1, 2020.**⁷

Second, **states are not permitted to disenroll anyone enrolled in Medicaid as of March 18, 2020, or who enrolls during the period of the public health emergency**, unless the person voluntarily requests their coverage be terminated or the person is no longer a state resident.⁸ This requirement applies regardless of any changes in circumstances that would otherwise have resulted in coverage termination.⁹

If the state has already terminated coverage for individuals enrolled as of March 18, the state is – at a minimum – required to contact those individuals to inform them of their continued eligibility and encourage them to reapply. If feasible, the state should automatically reinstate these individuals, and states should suspend any terminations scheduled to automatically

⁴ CMS Increased FMAP FAQs at 3.

⁵ CMS Increased FMAP FAQs at 2.

⁶ FFCRA § 6009. (The territories that operate under capped funding are American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. All Medicaid-related provisions of the FFCRA and CARES Act treat the District of Columbia as a state, although some other provisions of the CARES Act treat the District of Columbia as a territory.)

⁷ FFCRA § 6008(b)(1).

⁸ FFCRA § 6008(b)(3).

⁹ CMS Increased FMAP FAQs at 5.

occur during the emergency period. Individuals who were previously determined ineligible who continued to receive services pending appeals (as of March 18) must also remain enrolled.¹⁰ States can move an individual to an eligibility group with increased benefits during the national emergency if they experience a change in circumstances. However, the state may not decrease an individual's benefits.¹¹ For example, in [states](#) that provide limited benefits in pregnancy-related Medicaid, the state could move women from pregnancy-related Medicaid to the parent/caretaker eligibility group after 60 days postpartum just as the state would normally, since the parent/caretaker eligibility group has greater benefits. However, in states where pregnancy-related Medicaid has more robust benefits than the parent/caretaker group, the state would need to keep women enrolled in pregnancy-related Medicaid even after 60 days postpartum, throughout the duration of the public health emergency.

Third, **states must cover – without cost-sharing – testing, services, and treatments for COVID-19 for Medicaid enrollees** (including vaccines, specialized equipment, and therapies).¹²

Fourth, **states may not impose premiums higher than the state had in effect on January 1, 2020** on any individual. This provision was delayed in the CARES Act, so it will go into effect on April 17.¹³

Ban on Cost-Sharing for COVID-19 Testing

States are prohibited from imposing cost-sharing on COVID-19 testing or testing-related services in Medicaid and CHIP, beginning on March 18.¹⁴ This requirement is separate from the maintenance of effort provision described above, where to access the increased FMAP states are prohibited from imposing cost-sharing for both testing and treatment in Medicaid.

State Plan Option for COVID-19 Testing

The FFCRA establishes a state plan option to pay for COVID-19 testing and testing-related services (but not treatment) for uninsured individuals. The option includes a 100% FMAP, so it is entirely federally financed. The federal government will also reimburse states for administrative costs. The option began on March 18, and expires at the end of the coronavirus national emergency.¹⁵

¹⁰ CMS Increased FMAP FAQs at 6.

¹¹ CMS Increased FMAP FAQs at 5.

¹² FFCRA § 6008(b)(4).

¹³ Coronavirus Aid, Relief, and Economic Security Act [hereinafter CARES Act], Pub. L. No. 116-136, 134 Stat 281 § 3720 (2020), <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf> (the provision goes into effect 30 days after the FFCRA's enactment).

¹⁴ FFCRA § 6004(a)(2); FFCRA § 6004(b).

¹⁵ FFCRA § 6004(a)(3).

The CARES Act clarified that the definition of “uninsured” for the purposes of this state plan option includes individuals enrolled in limited-scope Medicaid programs, as well as individuals who are in the “Medicaid gap” in states that did not expand Medicaid.¹⁶

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

Cash Assistance Provisions

The law includes several provisions that provide cash assistance to individuals during the pandemic. These provisions have special rules about whether they are treated as income or assets for Medicaid, CHIP, and the Marketplace.

First, the law provides a \$600 per week supplement to unemployment insurance benefits for the next four months, in addition to the base unemployment payment an individual receives.¹⁷ The supplemental benefits do not count as income for the purposes of Medicaid and CHIP, although an individual’s base unemployment payment still counts as income.¹⁸ In contrast, both the new supplemental payment and the base unemployment benefit do count as income for Marketplace tax credits.¹⁹

Additionally, most individuals are eligible for direct cash payments (or “Recovery Rebates”) of \$1,200 per adult and \$500 per child up to age 17.²⁰ Many people will receive these payments automatically. However, some people who have not filed taxes in 2018 or 2019 will need to file to receive the payment, even if they are not otherwise required to file a tax return.²¹ Individuals who receive Social Security benefits will receive the payments automatically.²² Additionally, a major concern with these payments is that they are only available to individuals with a Social Security Number, not those who file with an ITIN.²³

Because these “Recovery Rebate” payments are structured as tax refunds, they do not count as income for the purposes of Medicaid, CHIP, the Marketplace, or other public benefit

¹⁶ CARES Act § 3716.

¹⁷ CARES Act § 2104(b)(1).

¹⁸ CARES Act § 2104(h).

¹⁹ Christen Linke Young, USC-Brookings Schaeffer Initiative for Health Policy, *What Do I Do if I Lose My Job-Based Health Insurance?* (March 2020), <https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2020/03/17/what-do-i-do-if-i-lose-my-job-based-health-insurance/>.

²⁰ CARES Act § 2201.

²¹ Internal Revenue Service, *Economic Impact Payments: What You Need to Know* (March 30, 2020), <https://www.irs.gov/newsroom/economic-impact-payments-what-you-need-to-know>.

²² Department of the Treasury, *Social Security Recipients will Automatically Receive Economic Impact Payments* (April 1, 2020), <https://home.treasury.gov/news/press-releases/sm967>.

²³ CARES Act § 2201(g)(2)(a)

programs.²⁴ For Medicaid eligibility groups that have asset tests, the rebates are only taken into account as resources twelve months after receipt.²⁵

Home and Community-Based Services

States now have the option to continue to provide home and community-based services, including attendant care, to individuals who are admitted to an acute care hospital. These services must not be duplicative of hospital services, and must be included in an individual's plan of care. The services should be designed to ensure smooth transitions between acute care settings and the community, and to preserve an individual's functional abilities.²⁶

Health Care Extenders

The law also included a package of policies that Congress provides periodic extensions for (the "extenders"). The CARES Act extended the Money Follows the Person program and spousal impoverishment protections until November 30.²⁷ Additionally, the Community Mental Health Services Demonstration Program is extended until November 30, and will be expanded to two additional states.²⁸ Reductions in Medicaid Disproportionate Share Hospital (DSH) payments are also delayed until after November 30.²⁹

Small Business Loans

A provision in an earlier draft of the CARES Act excluded all nonprofits that receive Medicaid funding from receiving small business loans. This was removed from the final version of the law. However, the Small Business Administration retains broad discretion through its determination of "affiliation" to potentially deny loans for Planned Parenthood and other organizations.³⁰

Conclusion

The Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security Act contain many provisions that can help ensure individuals have the health care coverage they need during this pandemic. However, while these laws made progress, there is still far more to do – both to ensure that states and the federal government faithfully implement these laws, and to ensure that future policies during this national emergency meet the needs of individuals who are low-income, immigrants or underserved.

²⁴ 26 USC § 6409.

²⁵ 26 USC § 6409.

²⁶ CARES Act § 3715.

²⁷ CARES Act § 3811; CARES Act § 3812.

²⁸ CARES Act § 3814.

²⁹ CARES Act § 3813.

³⁰ Greg Sargent, *There's a Big Victory Buried in the \$2 Trillion Dollar Rescue Bill*, Washington Post, (March 26, 2020), <https://www.washingtonpost.com/opinions/2020/03/26/theres-big-victory-buried-2-trillion-rescue-bill/>.

For additional resources from NHeLP on COVID-19, please see our [Coronavirus Resources](#) website.